

### **REMARKS**

Claims 1-5 were examined and reported in the Office Action. Claims 1-3 and 5 are rejected. Claim 4 is canceled. Claims 1, 3 and 5 are amended. Claims 1-3 and 5 remain. Applicant notes that the check box in item 10 (Drawings) of the Office Action Summary is checked but neither the a) nor b) check boxes are marked. Applicant presumes the submitted drawings are therefore accepted.

Applicant requests reconsideration of the application in view of the following remarks.

#### **I. Claim Objections**

It is asserted in the Office Action that claims 1-5 are objected to because the term “the network character” lacks antecedent basis. Applicant has amended claim to correct the typographical error. In particular, Applicant has amended the term “the network character” to “the network characteristic” to overcome the objection.

It is also asserted in the Office Action that claim 4 is objected to as being unclear. Applicant has canceled claim 4. Applicant notes, however, that amended limitations from claim 4 are added to claim 1. The amendments include the limitations of

the determining the optimal parent node includes searching nodes on the currently constructed overlay multicast tree for any nodes having a same subnet ID as the new participant; selecting as a parent a node having a minimal tree level or minimal number of child nodes from the nodes having the same subnet ID if at least one node is found to have the same subnet ID as the new participant; selecting as a parent a node having a minimal tree level or minimal number of child nodes from all the nodes of the overlay multicast tree if no nodes having the same subnet ID as the new participant are found; and notifying the new participant of the node selected as a parent via a response message.

These limitations clarify the matter disclosed on pages 11-12 of the original filed specification. No new matter is added.

Accordingly, withdrawal of the objections for claims 1-3 and 5 are respectfully requested.

**II. 35 U.S.C. § 102(e)**

It is asserted in the Office Action that claims 1-2 and 5 are rejected under 35 U.S.C. §102(e), as being anticipated by U.S. Patent No. 6,507,562 issued to Kadansky et al (“Kadansky”). Applicant respectfully traverses the aforementioned rejection for the following reasons.

It is asserted in the Office Action that Applicant’s claim 4 would be allowable if rewritten in independent form. Applicant has amended claim 1 to include the limitations of claim 4, which were further amended for clarity. Therefore, Applicant’s amended claim 1 is now placed in allowable form.

Accordingly, withdrawal of the 35 U.S.C. § 102(e) rejections for claims 1-2 and 5 are respectfully requested.

**III. 35 U.S.C. § 103(a)**

It is asserted in the Office Action that Claim 3 is rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over Kadansky in view of U.S. Publication No. 20020150094 of Cheng et al.. Applicant respectfully traverses the aforementioned rejection for the following reasons.

Applicant’s amended claim 3 depends on claim 1 or 2. Applicant’s claim 2 depends on claim 1. As asserted above, Applicant has amended claim 1 to include the limitations of claim 4, which now place amended claim 1 in allowable for. Therefore, Applicant’s amended claim 3 is allowable for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for Claim 3 is respectfully requested.

**IV     Allowable Subject Matter**

Applicant notes with appreciation the Examiner's assertion that claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has amended claim 1, which correspond to claim 4 re-written in independent form.

Applicant respectfully asserts that claims 1-3 and 5, as they now stand, are allowable for the reasons given above.

**CONCLUSION**

In view of the foregoing, it is submitted that claims 1-3 and 5 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

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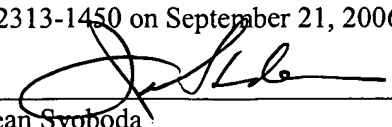
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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendments, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on September 21, 2006.

  
Jean Svoboda